

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CUMBERLAND PHARMACEUTICALS
INC.,

Plaintiff,

-against-

MELINTA THERAPEUTICS, LLC, ET AL.

Defendants,

22-cv-00915 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

The parties asserts that jurisdiction in this Court is proper by reason of diversity of citizenship, pursuant to 28 U.S.C. § 1332. ECF No. 33 at 2. Defendant Melinta Therapeutics, LLC is comprised of two members: Deerfield Private Design Fund III, L.P. (“Deerfield Fund III”) and Deerfield Private Design Fund IV, L.P. (“Deerfield Fund IV”). *Id.* Plaintiff Cumberland reports that it “has been unable to determine from publicly available information the identities of Deerfield Fund III’s limited partners.” *Id.* at 2-3. The same is reportedly true for Deerfield Fund IV. *Id.* at 3.


A limited liability partnership is deemed to be a citizen of each state of which its members, both general and limited, are citizens. *See, e.g., Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48, 51-52 (2d Cir. 2000). “[T]he party seeking to invoke jurisdiction under 28 U.S.C. § 1332 bears the burden of demonstrating that the grounds for diversity exist and that diversity is complete.” *Herrick Co. v. SCS Commc’ns, Inc.*, 251 F.3d 315, 325 (2d Cir. 2001) (internal citation and quotation omitted). Yet, the complaint, nor the joint letter submitted to the Court, sufficiently alleges the citizenship the limited partners members of Deerfield Fund III and Deerfield Fund IV. *See Tutor Perini Bldg. Corp. v. New York City Reg’l Ctr., LLC*, No. 20 CIV. 731 (PAE), 2020 WL 7711629, at *2 (S.D.N.Y. Dec. 29, 2020) (finding that plaintiff did not

satisfy jurisdictional burden when complaint stated that “[Plaintiff] is informed and believes and thereon alleges that none of the defendants named in this Second Amended Complaint are citizens nor have their places of businesses in the [states that would destroy diversity]”).

Accordingly, it is hereby ORDERED that, on or before **October 25, 2022**, the parties shall file on ECF a joint letter, supported by one or more sworn affidavits, alleging the citizenship of Deerfield Fund III’s limited partners and Deerfield Fund IV’s limited partners.

Dated: October 19, 2022
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge